

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KUJTIM DEMIROVIC, RICHARD
REINOSO, MURTO AVDALOVIC and
SENAD PEROVIC,

15-cv-0327 (CLP)

Plaintiffs,

-against-

FRANKLIN ORTEGA,
ROCIO UCHOFEN and
P.O. ITALIANISSIMO
RISTORANTE INC.,

Defendants.

**Plaintiffs' Damages Calculations
Pursuant to the Jury's Verdict Sheet**

Pursuant to the Court's Post-Trial Scheduling Order, Plaintiffs, by their undersigned counsel, respectfully submit the following damages calculations pursuant to the jury's verdict.

The calculations below have been made by Plaintiffs' counsel in accordance with the answers given by the jury on the Verdict Sheet. The calculations below include prejudgment interest at the New York rate (9%) on Plaintiff's New York Labor Law ("NYLL") claims, *Ni v. Bat-Yam Food Services Inc.*, 2016 WL 369681, at *3 (S.D.N.Y. 2016), except for the statutory wage notice claims under NYLL § 198(1-b & 1-d) (no interest has been added to those statutory damages).

The electronic versions of the Excel worksheets below are available for the Court's use and inspection at the Court's request.

Kujtim Demirovic – Wage and Hour Damages

| Period (missed days are factored into figures below; where missed days are allocated between different parts of the year, the allocation is noted) | Non-overtime hours | Min. Wage Rate | Unpaid Minimum Wage for non-overtime hours worked | Unpaid Overtime [15 hours per week x minimum wage] | Unpaid Spread-Off-Hours Pay [5 days per week until 2012; 2 days per week thereafter] | NYLL § 198(1-d) statutory damages (failure to provide earnings statements) | Prejudgment interest at 9% (NYLL §§ 198(1-a) & 663.1) from July 15, 2011 (midpoint) (6.3 years x 9% = 56.7%) (no interest added to column G statutory damages) | TOTALS |
|--|--------------------|----------------|---|--|--|--|--|------------------|
| 1/21/09-7/23/09 [26.2 wks - 8 days off allocated to this period = 24.6 wks] | 984 | \$7.15 | \$7,036 | \$2,638 | \$879 | | \$5,984 | \$16,537 |
| 7/24/09-12/31/09 [19.6 wks - 7 days off allocated to this period = 18.2 wks] | 728 | \$7.25 | \$5,278 | \$1,979 | \$660 | | \$4,489 | \$12,406 |
| 1/01/10-12/31/10 [48.2 wks] | 1928 | \$7.25 | \$13,978 | \$5,242 | \$1,747 | | \$11,888 | \$32,855 |
| 1/01/11-12/31/11 [51 wks] | 2040 | \$7.25 | \$14,790 | \$5,546 | \$1,849 | \$2,500 | \$12,579 | \$37,264 |
| 1/01/12-12/31/12 [48 wks] | 1920 | \$7.25 | \$13,920 | | \$696 | | \$8,287 | \$22,903 |
| 1/01/13-12/31/13 [51 wks] | 2040 | \$7.25 | \$14,790 | | \$740 | | \$8,805 | \$24,335 |
| 1/01/14-5/01/14 [17.33 wks - 1.5 days off allocated to this period = 17.03 wks] | 681 | \$8.00 | \$5,450 | | \$272 | | \$3,244 | \$8,966 |
| 5/01/14-12/06/14 [31.2 wks - 3.5 days off allocated to this period = 30.5 wks] | 763 | \$8.00 | \$6,100 | | \$488 | | \$3,735 | \$10,323 |
| TOTALS | - | - | \$81,341 | \$15,406 | \$7,331 | \$2,500 | \$59,012 | \$165,590 |

Murto Avdalovic - Wage and Hour Damages

| Period (missed days are factored into figures below; where missed days are allocated between different parts of the year, the allocation is noted) | Hours worked | Min. Wage Rate | Unpaid Minimum Wages (29 hours per week) | Unpaid Spread-Of-Hours Pay [1 days per week] | NYLL § 198(1-d) statutory damages (failure to provide earnings statements) | Prejudgment interest at 9% (NYLL §§ 198(1-a) & 663.1) from July 15, 2011 (midpoint) (6.3 years x 9% = 56.7%) (no interest added to column G) | TOTALS |
|--|--------------|----------------|--|--|--|--|------------------|
| 1/21/09 - 7/23/09 [26.2 wks - 1 day off allocated to this period = 26 wks] | 754 | \$7.15 | \$5,391 | \$186 | | \$3,162 | \$8,739 |
| 7/24/09 - 12/31/09 [22.7 wks - 1 day off allocated to this period = 22.5 wks] | 652.5 | \$7.25 | \$4,731 | \$163 | | \$2,775 | \$7,669 |
| 1/01/10 - 12/31/10 [51.6 wks] | 1496.4 | \$7.25 | \$10,849 | \$374 | | \$6,363 | \$17,586 |
| 1/01/11 - 12/31/11 [51.6 wks] | 1496.4 | \$7.25 | \$10,849 | \$374 | \$2,500 | \$6,363 | \$20,086 |
| 1/01/12 - 12/31/12 [50.4 wks] | 1461.6 | \$7.25 | \$10,597 | \$365 | | \$6,215 | \$17,177 |
| 1/01/13 - 12/31/13 [51.6 wks] | 1496.4 | \$7.25 | \$10,849 | \$374 | | \$6,363 | \$17,586 |
| 1/01/14 - 12/06/14 [48 wks] | 1392 | \$8.00 | \$11,136 | \$384 | | \$6,532 | \$18,052 |
| TOTALS | - | - | \$64,401 | \$2,221 | \$2,500 | \$37,775 | \$106,896 |

Senad Perovic – Wage and Hour Damages

| Period (missed days are factored into figures below; where missed days are allocated between different parts of the year, the allocation is noted) | Non-overtime hours worked | Min. Wage Rate | Unpaid Minimum Wages for non-overtime hours worked | Unpaid Overtime [15 hours per week x minimum wage] | Unpaid Spread-Of-Hours Pay [4 days per week] | NYLL § 198(1-d) statutory damages (failure to provide earnings statements) | Prejudgment interest at 9% (NYLL §§ 198(1-a) & 663.1) from July 15, 2011 (midpoint) (6.3 years x 9% = 56.7%) (no interest added to column G) | TOTALS |
|---|----------------------------------|-----------------------|---|---|---|---|---|------------------|
| 1/21/09 - 7/23/09 [26.2 wks - 2 days off allocated to this period = 25.8 wks] | 1032 | \$7.15 | \$7,379 | \$4,151 | \$738 | | \$6,956 | \$19,223 |
| 7/24/09 - 12/31/09 [22.7 wks - 1 day off allocated to period = 22.5 wks] | 900 | \$7.25 | \$6,525 | \$3,670 | \$653 | | \$6,151 | \$16,999 |
| 1/01/10 - 12/31/10 [51.4 wks] | 2056 | \$7.25 | \$14,906 | \$8,385 | \$1,491 | | \$14,051 | \$38,832 |
| 1/01/11 - 12/31/11 [51.4 wks] | 2056 | \$7.25 | \$14,906 | \$8,385 | \$1,491 | \$2,500 | \$14,051 | \$41,332 |
| 1/01/12 - 12/31/12 [48.4 wks] | 1936 | \$7.25 | \$14,036 | \$7,895 | \$1,404 | | \$13,231 | \$36,566 |
| 1/01/13 - 12/31/13 [50.4 wks] | 2016 | \$7.25 | \$14,616 | \$8,222 | \$1,462 | | \$13,778 | \$38,077 |
| 1/01/14 - 12/06/14 [48 wks] | 1920 | \$8.00 | \$15,360 | \$8,640 | \$1,536 | | \$14,479 | \$40,015 |
| TOTALS | - | | \$87,728 | \$49,347 | \$8,773 | \$2,500 | \$82,696 | \$231,043 |

Richard Reinoso – Wage and Hour Damages

| Period (missed days are factored into figures below; where missed days are allocated between different parts of the year, the allocation is noted) | Non-overtime hours | Min. Wage Rate | Unpaid Minimum Wages for non-overtime hours | Unpaid Overtime [15 hours per week x minimum wage] | Unpaid Spread-Of-Hours Pay [4 days per week] | Statutory damages under NYLL § 198(1-b & 1-d) (failure to provide wage notice and earnings statements) | Prejudgment interest at 9% (NYLL §§ 198(1-a); 663.1) from August 20, 2012 (midpoint) (5.2 years x 9% = 46.8%) (no interest added to column) | TOTALS |
|---|---------------------------|-----------------------|--|---|---|---|--|------------------|
| 5/10/11 - 12/31/11 [32.2 wks] | 1288 | \$7.25 | \$9,338 | \$3,268 | \$934 | \$5,000 | \$6,337 | \$24,877 |
| 1/01/12 - 12/31/12 [48 wks] | 1920 | \$7.25 | \$13,920 | \$4,872 | \$1,392 | | \$9,446 | \$29,630 |
| 1/01/13 - 12/31/13 [51 wks] | 2040 | \$7.25 | \$14,790 | \$5,177 | \$1,479 | | \$10,036 | \$31,482 |
| 1/01/14 - 12/06/14 [49.5 wks] | 1980 | \$8.00 | \$15,840 | \$5,544 | \$1,584 | | \$10,749 | \$33,717 |
| TOTALS | - | - | \$53,888 | \$18,861 | \$5,389 | \$5,000 | \$36,568 | \$119,706 |

**Summary of Wage and Hour Damages
in Accordance with the Jury's Verdict Sheet**

| | |
|---|------------------|
| Kujtim Demirovic | \$165,590 |
| Murto Avdalovic | \$106,896 |
| Senad Perovic | \$231,043 |
| Richard Reinoso | \$119,706 |
| Total Wage & Hour Damages (exclusive of attorney's fees) | \$623,235 |

Liquidated Damages, Attorney's Fees and Costs

The above totals do not include the liquidated damages to be awarded by the Court under NYLL § 215.2(a), or the attorney's fees to be awarded by the Court, or nominal damages or costs.

Such additional sums should be included in any final judgment that is entered.

Dated: New York, New York
November 2, 2017

Respectfully submitted,

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